

Congress of the United States

Washington, DC 20510

April 5, 2017

President Donald J. Trump
The White House
1600 Pennsylvania Ave N.W.
Washington, DC 20500

Dear President Trump:

Your meeting with China's President Xi comes at a critical juncture in U.S.-China economic relations. This week's meeting presents an important opportunity to address serious issues in the economic relationship between our countries. While we recognize that many U.S. companies have productive operations in China and are exporting to and investing in China, we continue to be alarmed by the growing number of trade barriers that China imposes. Many of these priorities were described in detail in the *2017 National Trade Estimate Report on Foreign Trade Barriers* issued by the Office of the United States Trade Representative last week. Below, we identify several key areas of concern, and we urge you to raise them in your discussions to lay the foundation for a pro-jobs, pro-growth trade agenda with China.

Our Committees for years have highlighted the challenges arising from China's persistent reliance on policies that impair fair and open competition in the Chinese market, harm U.S. businesses and workers, and contribute to severe distortions in the global marketplace. Coupled with an absence of transparency in rulemaking at the national and subnational level, these policies result in market access barriers and market distorting practices that significantly reduce American businesses' abilities to export to and invest in China and elsewhere. At the same time, these barriers compromise the ability of American producers to compete in our own market.

Market distorting behavior harming American manufacturers. China has challenged the determination by the U.S. Department of Commerce that China is a non-market economy under U.S. trade remedy laws. However, China's designation is based on the application of an objective six-factor statutory test and reflects China's continued failure to pursue market-oriented policies in favor of broad-based government intervention throughout its economy. Only by undertaking necessary reforms will China qualify as a market economy. China's overcapacities in steel, aluminum, solar, cement, soda ash and other commodities – generated by its continued use of subsidies and other market-distorting policies, often through state-owned enterprises – has distorted global markets. In the same vein, we are alarmed that China continues in its Made in China 2025 initiative, which relies on heavy-handed state intervention to tilt the playing field, cultivating state champions, and undermining global market competition. China must work to end commodity overcapacities by tackling the underlying policies that contribute to these distortions.

Discriminatory and distortive technology policies undermining America's technology and digital advantage. China's policies with respect to Internet services and information and communications technology products continue to present grave concerns in this area of particular competitive strength for U.S. companies. Approximately five million U.S. jobs are associated with services exports, and over 60 percent of the \$262 billion of the U.S. global services trade surplus is composed of digitally deliverable services. China's increasing reliance on localization requirements, forced transfer of intellectual property (IP), local content requirements, and website blocking compromises U.S. businesses' abilities to compete in China. China's proposed policies concerning cloud computing services effectively could bar U.S. providers from operating or competing in China's market.

Weak IP protection harming American innovators. IP protection remains a serious challenge. China's policies contribute to rampant trade secrets theft. China continually denies market access and other benefits to foreign firms unless they agree to license IP to a Chinese party or meet other conditions. Chinese government-sanctioned cyber-attacks on U.S. companies, which frequently are economically motivated, result in the theft of proprietary and sensitive information and assets. China is the principal source of counterfeit goods entering the United States and continues to be the greatest infringer of IP rights of U.S. producers of audiovisual content. China's enforcement against counterfeit goods and online infringement of IP rights remains grossly inadequate. Additionally, China's trademark registration system continues to be deliberately difficult for legitimate right holders to navigate. There also are reports of continued unjustified denials of patent applications and invalidations of existing patents.

Barriers to exports and market distorting policies compromising American farmers and rural communities. Although China has become a vital market for some U.S. agricultural exports, U.S. farmers and ranchers, including producers of beef and poultry, encounter persistent non-scientific regulatory barriers to exports to China. Approval of innovative U.S. biotechnology products remains slow, irregular, and unpredictable. China's ballooning domestic support has affected global agricultural commodity markets, including rice, corn, and wheat. These policies have a detrimental impact on the ability of American farmers to compete in increasingly important overseas markets in China and elsewhere.

Currency and exchange rate policies. China's government continues to play a decisive role in determining the value of the RMB rather than moving towards market-determined exchange rates. Currency and exchange rate policies have contributed to market distortions. China must not use policies that rely on currency intervention to gain a competitive advantage in trade and must provide more transparency with respect to its currency-related activities.

Retaliatory policies and nontransparent legal regimes. China's use of retaliation or threats of retaliation to discourage U.S. companies and WTO members from exercising their rights with respect to trade enforcement make it difficult to enforce effectively China's existing WTO obligations and U.S. trade laws. At the same time, lack of transparency, including China's failure to comply with transparency-related commitments that China made as part of its WTO accession, make it difficult for the United States to ensure that China is complying with its obligations. The rules-based trading system is an important check on China's behavior, and it is

essential that the United States show continued leadership among WTO members in fully enforcing trade rules and resisting attempts at unwarranted retaliation by China.

Above all, we encourage you to use this meeting to ensure the full effectiveness of existing fora to address the range of challenges with respect to China. We believe that existing dialogues such as the Joint Commission on Commerce and Trade (JCCT) and the Strategic and Economic Dialogue (S&ED) can be useful if followed by vigilant enforcement of the commitments that China has made to the United States, including through these dialogues, and at the WTO. Bilateral investment treaty negotiations between the United States and China may present an opportunity to address many of the outstanding issues with China, provided that the resulting standards are high and rigorous, are consistent with U.S. law, and address the unique challenges that China presents.

Whether they are commitments to address market distorting unfair trade in goods, restrictions on Internet-related services trade and information and communications technology products, shortcomings in IP protections, protectionist restrictions on agriculture trade, damaging equity caps across many sectors, or other policies that adversely affect the ability of U.S. businesses, manufacturers, services providers, IP-intensive industries, farmers, ranchers, and workers to compete with Chinese producers both domestically and overseas, the United States must be prepared to hold China accountable for delivering on the promises that it has made.

We look forward to working closely with you on these matters and would welcome an early opportunity to meet with your team to discuss them further.

Sincerely,



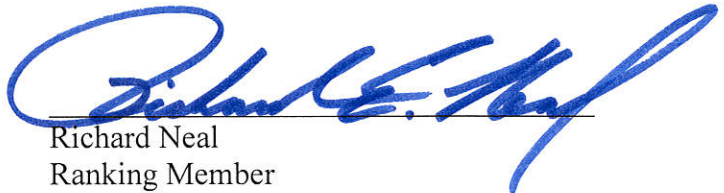
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Chairman
Senate Committee on Finance



Kevin Brady
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Ron Wyden
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